

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Bail Appl..No. 7309 of 2015 ()

CRIME NO. 155/2015 OF KARTHIKAPPALLY EXCISE RANGE,ALAPPUZHA DISTRICT

PETITIONER/ACCUSED:

**RAJAMMA, AGED 62 YEARS, W/O.SURENDRAN,
CHAPRAYIL HOUSE, THRIKKUNNAPPUZHA,
KIZHAKKEKKARA VADAKKU MURI, THRIKKUNNAPUZHA VILLAGE,
KARTHIKAPPALLY TALUK, ALAPPUZHA.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY**

RESPONDENT(S)/STATE:

- 1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM- 682 031.(CRIME NO.155/2015 OF
KARTHIKAPPALLY EXCISE RANGE,
ALAPPUZHA DISTRICT).**
- 2. EXCISE RANGE OFFICER,
KARTHIKAPPALLY EXCISE RANGE,
ALAPPUZHA DISTRICT -690 516.
(CRIME NO.155/2015 OF KARTHIKAPPALLY EXCISE RANGE,
ALAPPUZHA DISTRICT)**

BY PUBLIC PROSECUTOR SMT. LALIZA.T.Y

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 15-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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A.HARIPRASAD, J.

B.A. No.7309 of 2015

Dated this the 15th day of December, 2015

ORDER

Application under Section 438 of the Code of Criminal
Procedure.

2. Petitioner apprehends arrest in Karthikappally Excise Range
Crime No.155 of 2015 registered for an offence punishable under Section
55(i) of the Abkari Act.

3. Prosecution case is that on 01.10.2015 at about 12.15 p.m.,
the Excise Officers while on patrol duty got a reliable information that the
petitioner was engaged in sale of Indian Made Foreign Liquor. When they
reached at the informed place, they could find out 4.8 litres of Indian Made
Foreign Liquor and it was said to be in the possession of the petitioner.

4. Heard both sides.

5. Learned counsel for the petitioner submitted that the Excise Officers in order to wreak vengeance falsely implicated the petitioner in a crime. Alleged detection was on 01.10.2015. Her husband filed a complaint before the Circle Inspector of Police, Harippad on 02.10.2015 alleging that gold ornaments and cash have been forcefully taken by the Excise Officers on the pretext of a raid. It is also contended that the Excise Officers alleged that she was selling 800 ml. of liquor and four litres were recovered from a nearby pond. Petitioner pleads innocence.

6. Learned Prosecutor opposed the bail application. It is submitted on behalf of the prosecution that husband of the petitioner is involved in many cases of the same nature. Further the petitioner could not be arrested for want of a woman Police Constable. The offence was detected on 01.10.2015. Learned counsel for the petitioner contended that only on 03.10.2015 the seizure mahazar was produced before the court. It

is to be noted that October 2, 2015 is a holiday and therefore, prima facie it cannot be said that there is inordinate delay.

Considering the nature of allegations and the fact that the petitioner is a lady and also the restrictions in Section 41A of the Abkari Act, I am not inclined to grant pre-arrest bail to her. Hence following directions are issued:

In the event the petitioner surrenders before the investigating officer within a period of two weeks from today, she shall be questioned thoroughly and produced before the Magistrate having jurisdiction on the date of surrender itself. In that event, she is free to move for bail and the learned Magistrate shall consider the application on merits and pass appropriate orders as expeditiously as possible, if possible on the date of filing itself. The matter shall be considered on merit keeping in mind the principles in **Sukumari v. State of Kerala (2001 (1) KLT 22)**. If petitioner

does not surrender before the investigating officer within the said time, the investigating officer is free to arrest her, as if no order is passed in this case.

Application is disposed of.

A. HARIPRASAD, JUDGE.

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